

INCORPORATION of SAN MARTIN and the LAFCO Process

San Martin Community Workshop

May 17, 2007

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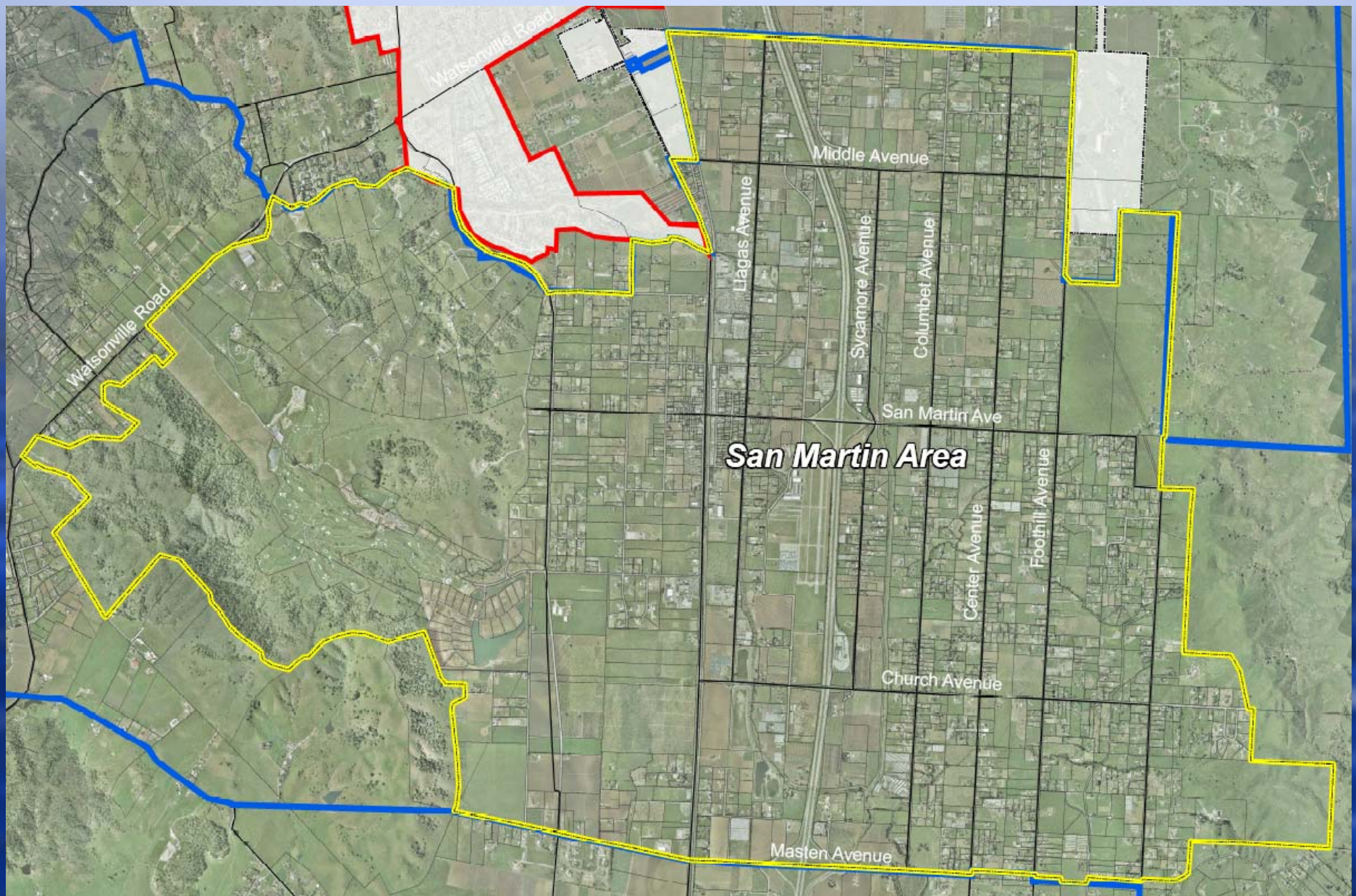
WORKSHOP GOALS

- ◆ Review the Proposed Incorporation of the Town of San Martin
- ◆ Clarify the Incorporation Process
- ◆ Review Legal Requirements
- ◆ Review Financial Considerations
- ◆ See Santa Clara LAFCO Draft Incorporation Policies
- ◆ Discuss Desired Time Line & Challenges
- ◆ Answer Questions

Proposed Incorporation of the Town of San Martin

- ◆ Reasons for the Proposal (Petition)
 - ◆ Gain local control of land use, growth, planning policy and other governmental activities
 - ◆ Town Council
 - ◆ Locally Accessible Leadership
 - ◆ Accountable and Focused on San Martin Needs
 - ◆ Intent is to preserve rural residential qualities of the community
 - ◆ No change in nature of services

Proposed Boundaries for New Town



What A New City Means

- ◆ Locally Elected City Council
 - ◆ Accessible Leadership, Local Control & Focus
 - ◆ Customize Local City Services, Some Still County/District
 - ◆ Future Council Decisions Will Shape the City
- ◆ New Government
 - ◆ Land Use, Zoning and City General Plan (Development)
 - ◆ Business & Building Permits, etc.
 - ◆ New City Ordinances
- ◆ Tax Shifts to City to Support Services
 - ◆ Capture and Retain Share of Local Tax Dollars
 - ◆ Prop 13 & Prop 218: No New Taxes without Vote
 - ◆ State Funding for Cities (VLF)

What Incorporation Won't Do

- ◆ Will Not Trigger Urban Development
 - ◆ City Council has land use power
 - ◆ Adoption of City General Plan
- ◆ Will Not Increase Property Taxes
 - ◆ State Laws and Constitution (Prop.13)
 - ◆ County Assessed Values & Process Unchanged
- ◆ Won't Automatically Change Services

How Is A New City Created?

5 MAJOR STEPS

1. Start With Petition of Registered Voters
2. Complete the Application Package
(Information for LAFCO & Public)
3. LAFCO Hearing and Decision
4. Election (Called by Board of Supervisors)
Usually takes a minimum of 9-12 months
5. Completion, Filings, Recording & Transmittal

Team Work Needed All the Way

*LAFCO Staff, Consultants, Proponents, County,
Other Affected Agencies*

Proposed Timeline

ACTIVITY	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08
APPLICATION AND PETITION SUBMITTED																						
CONDUCT INCORPORATION WORKSHOPS																						
ADOPT INCORPORATION POLICIES & PROCEDURES																						
ESTABLISH FEE SCHEDULE																						
ESTABLISH TIMELINE																						
SELECT AND HIRE CONSULTANTS																						
DEVELOP ALTERNATIVE BOUNDARIES																						
DEVELOP SERVICE PLAN, SERVICE REVIEW & SPHERE OF INFLUENCE CONDUCT ENVIRONMENTAL ANALYSIS (CEQA) PREPARE COMPREHENSIVE FISCAL ANALYSIS (CFA)																						
REVENUE NEUTRALITY NEGOTIATIONS																						
STAFF ANALYSIS AND EXEC. OFFICER'S REPORT																						
LAFCO PUBLIC HEARINGS																						
BOARD OF SUPERVISORS TO CALL ELECTION																						
INCORPORATION ELECTION																						

Legal & Regulatory Framework

- Process is Defined by:
 - a. Provisions of the State Constitution
 - b. Cortese-Knox-Hertzberg Act - LAFCO Laws (Government Code Section §56000et.seq.
 - c. Revenue & Taxation Code
 - d. California Environment Quality Act
 - e. Locally adopted LAFCO policies
- ◆ Complex For A Reason:
 - ◆ Ensures All Parties' Interests are Represented

STEP #1:

The Petition to LAFCO

- ◆ Signed by registered voters
 - ◆ Shows proposed boundaries and intended services
 - ◆ “Certificate of Sufficiency” March 6, 2007
 - ◆ Formal Initiation Date is date of “CoS”
- ◆ Comparison to Citizen Initiative Petitions
 - ◆ Different than Ballot Proposition
 - ◆ Initiates review by LAFCO - leads to election
 - ◆ Does not directly initiate the election

STEP #2

Application Elements

- ◆ Forms & Signatures, Fee Payment Arrangements
- ◆ Map and Boundary Alternatives
- ◆ Fiscal Analysis (CFA)
 - ◆ Base Costs, Services, Projected Revenues
 - ◆ Projected City Budgets (10 years)
 - ◆ Analysis and Basis for Revenue Neutrality Agreement
- ◆ CEQA- potential environmental effects
- ◆ Certificate of Filing

CFA-FISCAL ANALYSIS



- ◆ Assesses Feasibility
 - ◆ Proposed City Costs & Revenues
 - ◆ 3 years--Minimum Feasibility
 - ◆ 10 years--Long Term Viability (State Revenues)
- ◆ Calculates "Base Year" Cost
- ◆ Calculates City's Base Property Tax
 - ◆ Auditor's Ratio (property taxes ÷ all revenues)
 - ◆ Ratio x Cost of Services Transferred to City
- ◆ Data From Most Recent Fiscal Year (06-07)
- ◆ Current & Useful for Only One Year

REVENUE NEUTRALITY

- ◆ Revenues Transferred = Cost of Services
- ◆ Negotiations & Agreement
 - ◆ between County/Agencies and Proponents
 - ◆ Includes Fiscal mitigation, tax sharing, etc.
 - ◆ Prospective, not just base year
 - ◆ payment plans, creative ideas to achieve equal transfer
- ◆ LAFCO must determine that transfer of revenue and services are “substantially equal”
- ◆ Fiscal Conditions by LAFCO bind the future city



CEQA-Environmental Review

- ◆ CEQA Requires Pre-Decision Disclosure of Environmental Effects of Incorporation
- ◆ All LAFCO Decisions subject to CEQA
- ◆ Project Description and “Initial Study”
 - ◆ Analyze & Identify Potential Effects
 - ◆ Consultation and Comment Process
 - ◆ Incorporation: New Administration, Governance
 - ◆ Could Incorporation Trigger Environmental Impacts?

Executive Officer's Report Integrated Analysis

- ◆ "Factors" Analysis in Gvt. Code 56668
- ◆ City Services
- ◆ Boundaries, Boundary Alternatives
- ◆ Effect of the Incorporation on Others
- ◆ Fiscal Effects and Effect of Transfers
- ◆ Environmental Effects (CEQA)
- ◆ Alternatives and Modifications



Sources of Municipal Revenue

To City From County

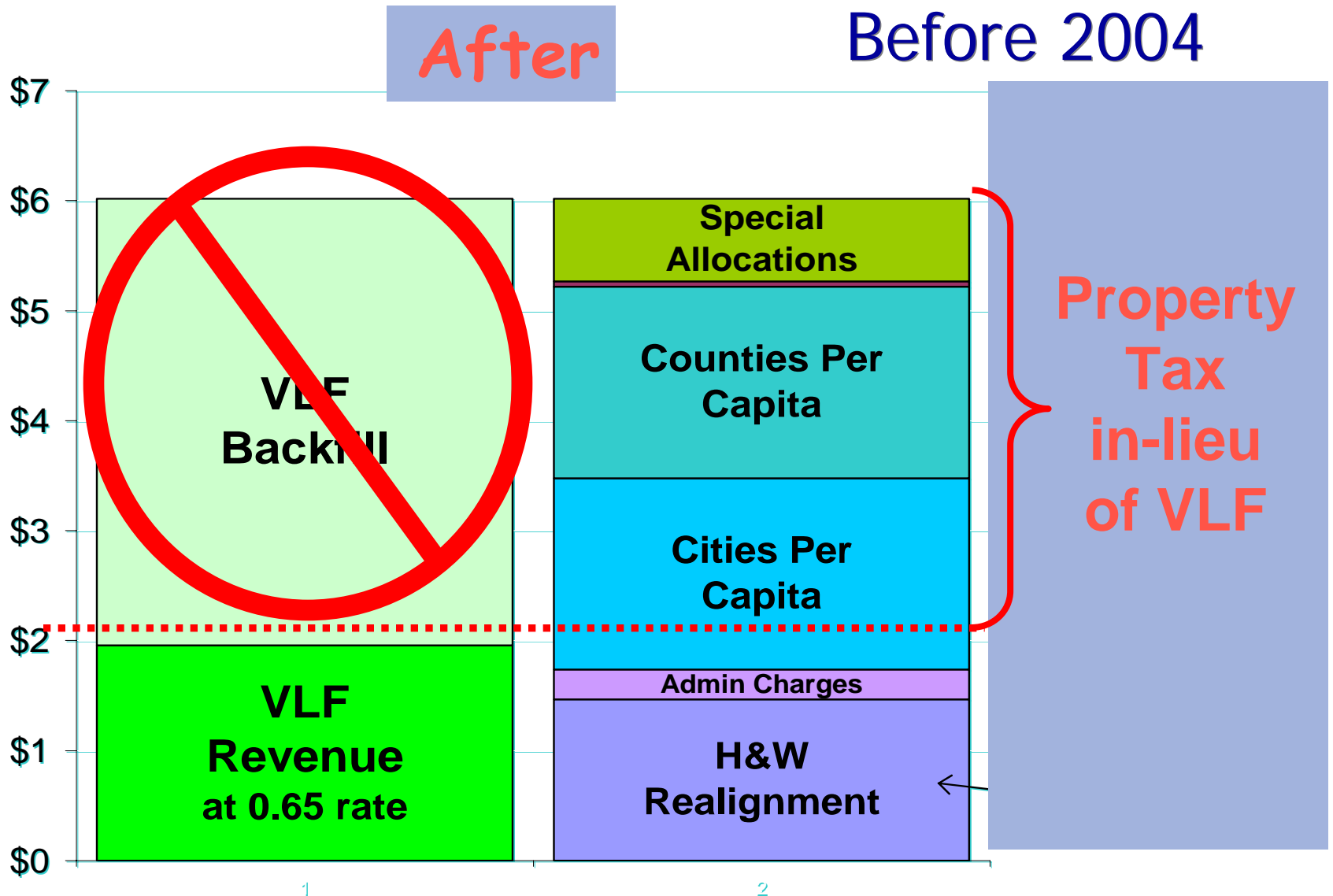
- ◆ Property Tax
- ◆ Sales Tax
- ◆ Real Property Transfer Tax
- ◆ Transient Occupancy Tax, Business License Tax
- ◆ Franchise Fees, Unitary Tax
- ◆ Planning & Permit Fees
- ◆ Fines and Penalties
- ◆ Interest/Investment Earnings

Sources of Municipal Revenues

New Revenue To Cities

- ◆ State "Subventions" Vehicle License Fees
- ◆ State Subvention Funding (Before 2004)
 - ◆ VLF fees distributed to counties and cities
 - ◆ Calculation based on Population
 - ◆ Population Subsidy for New Cities (3 x Voters)
- ◆ Changes in VLF Revenue Formulas - Critical for Financial Viability

Vehicle Lic. Fee (VLF) Revenues & Allocations



AB1602 (Laird 2006): A Remedy to VLF – PropTax Swap Problems

- ◆ Incorporations after August 2004
 - ◆ New VLF allocation \$50+ per capita ... including population growth over time. [Rev&Tax §11005(c)]
Compensation for lack of PropTax in Lieu of VLF
 - ◆ New VLF “bump” [Rev&Tax § 11005.3(c)]
 - ◆ 150% of actual population in the first year of incorporation,
 - ◆ 140% in the second year,
 - ◆ 130% in the third year,
 - ◆ 120% in the fourth year, and
 - ◆ 110% in the fifth year.
 - ◆ *Also applies to allocations of Highway User Tax (Gasoline Excise Tax)*
 - ◆ **Sunsets July 1, 2009.** Only incorporations prior to July 1, 2009 will qualify.

Quick Review

- ◆ STEP #1: The Petition to LAFCO
- ◆ STEP #2: Application Elements
- ◆ STEP # 3: LAFCO Hearings & Decision

STEP # 3 LAFCO Public Hearings

- ◆ Maps Prepared for Boundaries & Alternatives
- ◆ Charges Paid & Current
- ◆ Public Review Draft Fiscal Analysis (CFA)
 - ◆ Feasibility
 - ◆ Base Year Costs, Projected City Budget
- ◆ Revenue Neutrality Agreement
 - ◆ Cost of Services is Substantially Equal to Revenues Transferred
- ◆ CEQA Disclosure and Documentation
- ◆ Executive Officer's Report

LAFCO Decision Points



- ◆ Boundaries for the City
- ◆ Financial Feasibility of the City
- ◆ Services Assumed & Service Costs Transferred
- ◆ Property Taxes Transferred (Statutory Formula)
- ◆ Other Taxes & Payments (Revenue Neutrality)
- ◆ Disposition of Assets and Responsibilities
- ◆ Effective Date of Incorporation
- ◆ CEQA Adequacy: Disclosure, Findings, Mitigations if Needed, etc.

PUBLIC HEARINGS LAFCO DECISION

- ◆ Approve/Deny
- ◆ Amend & Modify
- ◆ Add Conditions
- ◆ Make Determinations
- ◆ Make Findings
- ◆ Set Provisional Gann Limit



STEP #4: Election

- Impartial Ballot Analysis

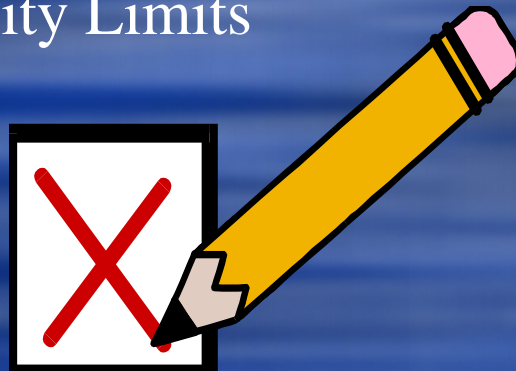
- 500 Words
- Reviewed by Counsel
- Approved by Commission

- Ballot Information

- Terms and Conditions
- Map of City Limits

- ♦ Election

- ♦ Placed on Ballot by Board of Supervisors
- ♦ Planned: November 08
- ♦ Majority Vote to Pass
- ♦ BoS certifies election results



PLANNED SCHEDULE

- ◆ **CEQA Work:**
 - ◆ Summer 07: Initial Study, Consultation
 - ◆ Determine if EIR or Neg Dec is needed
- ◆ **CFA & Revenue Neutrality:**
 - ◆ Summer/Fall 07: Research & Analysis
 - ◆ Early 08: Draft CFA & Revenue Neutrality Negotiations
 - ◆ Spring 08: RN Agreement Finalized
- ◆ **LAFCO Actions:**
 - ◆ Spring/Summer 08: Hearing(s) on Incorporation & Decision
- ◆ **Election**
 - ◆ November 08: Election by Area Voters
- ◆ Final Filings, Transmittals and Completion Dec 2008

Estimated Cost of Incorporation Proceedings

- ◆ Petition Verification Costs: \$3,600
- ◆ Comprehensive Fiscal Analysis: \$88,810
- ◆ LAFCO Staff/Counsel: \$100,000 approx.
- ◆ Initial Study/Neg. Dec.: \$15,000-25,000
- ◆ EIR: \$100,000 - \$150,000 approx.
- ◆ Misc. (noticing, maps...): \$3,000 approx

Proponents are responsible for these costs

LAFCO Policies

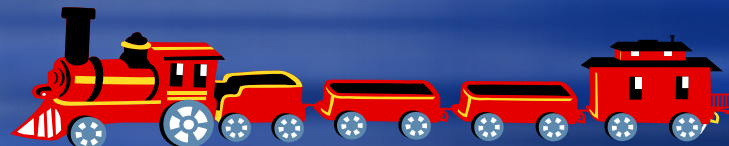
- ◆ Adoption on May 30
- ◆ Available on Website
- ◆ Purpose:
 - ◆ Implement Laws
 - ◆ Ground rules for all
 - ◆ Certainty & Clarity

Policy Topics

- ◆ Fees, Timing, Time Limits
- ◆ Boundaries & Services
- ◆ CEQA Process
- ◆ Financial Assumptions
- ◆ CFA Requirements
- ◆ Revenue Neutrality Process

Conclusion

- ◆ Incorporation Has Significant Effects on Community, County & Region
- ◆ Incorporation is a Complex Process
 - ◆ Process is Designed to Inform All Parties
 - ◆ There are Safeguards To Protect the Rights of All
- ◆ LAFCO has Broad Discretion
 - ◆ Approve or Disapprove
 - ◆ Determine Costs, Set Revenue Transfers
 - ◆ Add Conditions and Make Modifications
- ◆ Ultimate Success Depends on:
 - ◆ Cooperation Among All Parties
 - ◆ County, Proponents, LAFCO, Citizens, Other affected agencies
 - ◆ Will of the People



NEXT LAFCO WORKSHOP

WEDNESDAY MAY 30, 2007

10:30 AM TO 12:00 NOON

BOARD CHAMBERS

70 WEST HEDDING ST, 1ST FLOOR

SAN JOSE

SOURCES AND RESOURCES

OPR Guide to the LAFCO Process for Incorporations

www.opr.ca.gov

Santa Clara LAFCO Policies

www.santaclara.lafco.ca.gov

Guide to the Cortese-Knox-Hertzberg Local Government
Reorganization Act of 2000

On-line or via Assembly Publications, 1020 N Street, Room 151
Sacramento, CA 95814